

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

ADDITION OF EVERY DOOR DIRECT MAIL –
RETAIL TO THE PRODUCT LIST

Docket No. MC2012-31

RESPONSE OF THE UNITED STATES POSTAL SERVICE IN OPPOSITION TO
REQUEST OF DAVID B. POPKIN
FOR A PRESIDING OFFICER'S INFORMATION REQUEST
(July 24, 2012)

On July 19, 2012, David B. Popkin ("Mr. Popkin") filed the Request of David B. Popkin for a Presiding Officer's Information Request pursuant to Commission Rule 21(a) ("Motion"). In the Request, Mr. Popkin requested that the Presiding Officer order the Postal Service to respond to six questions, which were included in his Request. However, Mr. Popkin does not explain why he believes that responses to these questions are necessary for the Commission to fully understand the factual bases relied upon by the Postal Service in support of its Request to Add Every Door Direct Mail – Retail to the Mail Classification Schedule, July 10, 2012 ("Request").

The Postal Service hereby opposes the Motion. The Postal Service's Request clearly describes EDDM-R and who is eligible to utilize the product. Also, since it has been in a market test for almost a year and a half, many of these questions have been addressed either in the Request itself or through prior information requests or reply comments from the market test filing. The only differences between the market test and the proposed permanent product are as follows: (1) the maximum number of pieces was changed from 5,000 pieces per office per mailer per day to 5,000 pieces per ZIP Code

per mailer per day maximum; (2) the minimum number of pieces was changed from no less than one full carrier route to no less than one full carrier route AND no fewer than 200 pieces, unless there are fewer than 200 active deliveries in a ZIP Code, in which case the mail may be presented for the actual number of active deliveries for that ZIP Code; and (3) the price was changed to \$0.16. The plain meaning of these changes is clear, and mailers should be able to determine how each of these requirements should be applied in their unique circumstances.

Moreover, the rationale for the change in price was described in the Request. The customer convenience of allowing retail entry, without a requirement to pay a permit fee, is one justification in addition to the fact that EDDM entered at BMEUs have higher volumes than EDDM-R. The mailing standards also have not changed substantially from the market test either. Customers are able to target EDDM-R mailings to all-residential routes, all-business routes, and residential deliveries on mixed business/residential routes.

The Postal Service understands that Mr. Popkin is trying to understand each and every diminutive aspect of EDDM-R, but answering his very specific questions regarding how the Postal Service intends to implement this as a permanent product is not relevant to any of the legal conditions necessary for approval of the Request. It could also establish a precedent for mailers to start requesting that the Commission order the Postal Service to respond to an endless series of hypothetical questions, which are based on their individual circumstances and largely irrelevant to the general mailing community.

Further, mail classification proceedings do not specifically permit such discovery requests.¹ This type of proceeding is designed for mailers to use the “specified period for public comment” to provide their input or identify areas where the Postal Service needs to offer clarification.² After the comment period, the Commission historically has reviewed the Postal Service’s request and either: 1) approved the request; 2) denied the request; 3) instituted further proceedings; 4) allowed the Postal Service to modify the request, or; 5) directed the Postal Service to take other appropriate action.³ Conversely, the Commission deliberately intended for and established discovery rules in other types of proceedings. The rules applicable to exigent rate cases explicitly give interested persons the opportunity to suggest questions that might be included in the public hearing.”⁴ The Commission could have established rules in mail classification dockets, which would have allowed interested persons to propose questions to the Commission, but it did not.

While the Commission is free to pose questions to the Postal Service in the form of Presiding Officer’s Information Requests, Commission procedures do not permit discovery for interested parties in these types of proceedings. The Postal Service respectfully submits that the typical 45-day request and comment period is not structured for a discovery period, particularly in the context of a Rule 21 seven-day response period for motions and a market test that is quickly approaching the \$50 million revenue limit. Additionally, the Postal Service does not believe that a prolonged discussion of every possible detail or hypothetical that could stem from making EDDM-

¹ See 39 C.F.R. § 3020.30 *et seq.*

² 39 C.F.R. § 3020.33(e).

³ 39 C.F.R. § 3020.34.

⁴ 39 C.F.R. § 3010.65(c).

R a permanent product will assist the Commission in evaluating the merits of the Request. If the comments filed in this case demonstrate that there are areas where the Postal Service can provide a more detailed explanation, it will likely be addressed in the Postal Service's reply comments, due August 6, 2012.

Thus, the Postal Service respectfully requests that the Commission deny Mr. Popkin's Motion.

Respectfully submitted,

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